

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. STANLEY PATRICK WEBER, Defendant.	CR. 17-50033-JLV SUPPLEMENTAL JURY INSTRUCTIONS
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VERDICT

INSTRUCTION NO. 29 -

EQUALLY IMPORTANT INSTRUCTIONS

Members of the jury, I will now take a few minutes to give you additional instructions explaining the law which applies to this case. All instructions, both those I gave you earlier and these instructions, are equally binding on you and must be followed. You must consider my instructions as a whole and not single out some instructions and ignore others.

INSTRUCTION NO. 30 -

COUNTS REMOVED

The following counts are no longer part of this case:

- Count 5, Sexual Abuse, as given to you in Instruction No. 8;
- Count 8, Sexual Abuse of a Minor, as given to you in Instruction No. 11; and
- Count 11, Sexual Abuse of a Minor, as given to you in Instruction No. 14.

You will not decide those counts. The reason those counts are not part of the case cannot concern you. You should decide the case based solely on the evidence for the remaining counts before you and on my instructions.

INSTRUCTION NO. 31 - OTHER ABUSE CONDUCT

You have heard testimony Mr. Weber may have committed other acts of sexual abuse. He is not charged with these other acts.

You may consider evidence of these other acts only if you unanimously find it is more likely true than not true. You decide that by considering all of the evidence and deciding what evidence is more believable. This is a lower standard than proof beyond a reasonable doubt.

If you find these acts have not been proved, you must disregard them. If you find that these acts have been proved, you may consider them to help you decide any matter to which they are relevant.

You should give them the weight and value you believe they are entitled to receive. You may consider the evidence of other acts of sexual abuse for its tendency, if any, to show Mr. Weber's propensity to engage in sexual abuse. You may also consider the evidence for its tendency, if any, to determine whether Mr. Weber committed the offenses charged in the indictment.

Remember, Mr. Weber is on trial only for the charged offenses. You may not convict him simply because you believe he may have committed similar acts in the past.

INSTRUCTION NO. 32 -

INDIAN STATUS AND INDIAN COUNTRY

A person is considered an "Indian" if that person has some Indian blood and if that person is recognized as an Indian. To determine whether the person is recognized as an Indian, you may consider the following factors:

- (1) Whether the person is enrolled in a tribe.
- (2) Whether the government has provided the person with assistance reserved only to Indians.
- (3) Whether the person enjoys the benefits of tribal affiliation.
- (4) Whether the person is socially recognized as an Indian because he lives on the reservation and participates in Indian social life.

It is not necessary that all these factors be present. Rather, you must consider all the evidence in determining whether the government proved beyond a reasonable doubt that Frederick Gayton, Eugene Hunts Horse, Paul True Blood and Daniel Martin are Indian persons.

If you find the alleged offenses, if they occurred at all, occurred in Pine Ridge at the old Indian Health Service Hospital, the new Indian Health Service Hospital or Mr. Weber's house at Government Housing N77, then the offenses occurred in Indian country.

INSTRUCTION NO. 33 - DUTY TO DELIBERATE

A verdict must represent the considered judgment of each juror. Your verdict must be unanimous. It is your duty to consult with one another and to deliberate with a view of reaching agreement if you can do so without violence to your individual judgment. Of course, you must not surrender your honest convictions as to the weight or effect of the evidence solely because of the opinions of other jurors or for the mere purpose of returning a verdict. Each of you must decide the case for yourself, but you should do so only after consideration of the evidence with your fellow jurors.

In the course of your deliberations, you should not hesitate to re-examine your own views and change your opinion if you become convinced it is wrong. To bring the jury to a unanimous result, you must examine the questions submitted to you openly and frankly with proper regard for the opinions of others and with a willingness to re-examine your own views.

Remember that if, in your individual judgment, the evidence fails to establish Mr. Weber's guilt beyond a reasonable doubt on an offense charged against him, then your vote should be for a not guilty verdict on that offense. If all of you reach the same conclusion, the verdict of the jury must be not guilty on that offense. Of course, the opposite also applies. If, in your individual judgment, the evidence establishes Mr. Weber's guilt beyond a reasonable doubt on an offense charged, then your vote should be for a verdict of guilty on that offense. If all of you reach that conclusion, the verdict of the jury must be guilty on that offense.

The question before you can never be whether the government wins or loses the case. The government, as well as society, always wins when justice is done, regardless of whether your verdict is not guilty or guilty.

Finally, remember that you are not partisans. You are judges of the facts. Your sole interest is to seek the truth from the evidence. You are the judges of the credibility of the witnesses and the weight of the evidence.

You may conduct your deliberations as you choose. You may take all the time you feel is necessary.

There is no reason to think that another trial would be tried in a better way or that a more conscientious, impartial or competent jury would be selected to hear it. Any future jury must be selected in the same manner and from the same source as you. If you should fail to agree on a verdict, then this case is left open and must be resolved at some later time.

INSTRUCTION NO. 34 - DUTY DURING DELIBERATIONS

There are certain rules you must follow while conducting your deliberations and returning your verdict:

First, when you go to the jury room, you must select one of your members as your foreperson, who will preside over your discussions and speak for you here in court.

Second, if Mr. Weber is found guilty, the sentence to be imposed is my responsibility. You may not consider punishment in any way in deciding whether the government proved its case beyond a reasonable doubt as to the offenses charged in the indictment.

Third, if you need to communicate with me during your deliberations, you may send a note to me through the court security officer, signed by one or more jurors. After conferring with the lawyers, I will respond as soon as possible, either in writing or orally in open court. Remember you should not tell anyone—including me—how your votes stand numerically.

Fourth, your verdict must be based solely on the evidence and on the law in these instructions. **The verdict, whether not guilty or guilty, must be unanimous.** Nothing I have said or done is intended to suggest what your verdict should be—that is entirely for you to decide.

Fifth, the verdict form is simply the written notice of the decision you reach in this case. You will take this form to the jury room. When you have unanimously agreed on the verdict, the foreperson will fill in the form, date and

sign it and advise the court security officer you have reached a verdict. You will then return to the courtroom where your verdict will be received and announced.

Dated September 27, 2019.

BY THE COURT:



JEFFREY L. VIKEN
CHIEF JUDGE